

EXHIBIT A

In The Matter Of:

*Estate of Marissa Rose Fishman v.
Richard Longwill*

*Corporal Claudine Malone
May 17, 2006*

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[1] Marissa went upstairs to brush her teeth. During that
[2] time period, the grandmother of Marissa walked --
[3] opened the door from the kitchen area to the pool area
[4] to ask the workers if they would move a table and
[5] chairs -- a set of table and chairs that were in the
[6] pool area to the outside so that she could clean or do
[7] something in that area. And when she did that, she
[8] left the door open and it was in that time that
[9] Marissa wandered out to the pool area and we suspect
[10] reached for a toy that was floating inside the pool
[11] since there was no one else in that area at the time.

[12] Q. Let's back up for a second.

[13] A. Okay.

[14] Q. Was it your understanding that the
[15] construction workers were taking a table from the pool
[16] area out to the patio to clean or the other way
[17] around?

[18] A. It was my understanding that she -- that
[19] grandmom had asked them to move something for her from
[20] the pool area to the outside.

[21] Q. Okay. And that's just going on your -- on
[22] your memory and recollection?

[23] A. My recollection, yes.

[24] Q. Okay. I'm just going to represent to you that

[1] workers working on the residence. I guess I should
[2] read the whole thing.

[3] A. I recall reading that also.

[4] Q. Okay. As you read that, does that refresh
[5] your recollection as to who left that door open?

[6] A. That is -- that is different from my
[7] recollection of -- of what -- the statements that I
[8] received that day.

[9] Q. Okay. And that was a statement -- we just
[10] talked to Officer Schlosser.

[11] A. Mm-hmm.

[12] Q. But that was a statement that he received from
[13] both -- from both Alexandra and Barbara.

[14] A. Okay.

[15] Q. And you have an understanding that Barbara is
[16] the grandmother?

[17] A. Grandmother.

[18] Q. Okay. This initial -- just so we're clear,
[19] that's not -- that's different than what you recall?

[20] A. That is different from what I recall.

[21] Q. As you sit here today, do you know if you put
[22] in your report that aunt told you that grandmother,
[23] meaning Barbara, had left that door open?

[24] A. I could only guess that I would have put that

[1] we've taken some various depositions in the case --

[2] A. Mm-hmm.

[3] Q. -- including the grandmother and it's our
[4] understanding that the construction workers were
[5] instructed to take the patio furniture from the
[6] outside patio into the pool area.

[7] A. Okay. Well, that may very well be. I may be
[8] incorrect.

[9] Q. That's fine. Additionally, you said that you
[10] were informed that the grandmother left the door open?

[11] A. That's what I recall, yes.

[12] Q. And this is something -- the information that
[13] you received from whom; is that from the sister, from
[14] the aunt?

[15] A. From the sister, yes, from the aunt.

[16] Q. Since you don't have a copy of it, I'm just
[17] going to show you the investigative narrative that was
[18] conducted by Officer Schlosser.

[19] A. Yes.

[20] Q. One, two -- third paragraph. I actually
[21] highlighted it.

[22] A. Yes.

[23] Q. Do you see where it says -- I'm reading upside
[24] down, but door that was left open by construction

[1] because if it was contained in any interview and it
[2] stuck in my mind, then it would be documented as such.

[3] Q. Okay. If it's not -- and we're going to do
[4] everything we can to get that report.

[5] A. Sure.

[6] Q. But if it's not in your report, you believe
[7] it's a possibility that maybe your recollection is
[8] wrong as to what the aunt told you?

[9] A. I am certain that I was informed that grandmom
[10] left the door open because it was explained to me that
[11] that was why grandmom was that particularly despondent
[12] about Marissa being in the hospital, being hurt,
[13] subsequently dying, because she had left that door
[14] open and that it was particularly chaotic in the
[15] household which is -- as we all know sitting here
[16] today, when these accidents occur, when everything is
[17] not as it normally is and something is disrupted,
[18] something like this happens.

[19] Q. Did Deborah tell you where she got that
[20] information from, that grandmother had left the door
[21] open?

[22] A. Not that I recall.

[23] Q. Okay. Anything else that you can tell me
[24] about the interview that you conducted with Deborah

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[1] Fox?

[2] A. She frequently conveyed that this was a
[3] difficult time for the family, for her sister in
[4] particular and her sister's husband -- I thought they
[5] had had four children, I may be mistaken -- and hard
[6] on the kids and that the kids had been kind of
[7] recently transplanted to the grandparents' house
[8] because they had been separated. So everything wasn't
[9] as it normally was.

[10] Q. Did Deborah convey any information to you
[11] about construction workers who were doing work on the
[12] outside area of the home?

[13] A. I knew there had been construction workers
[14] there. What they were working on I don't remember.

[15] Q. Did Deborah convey to you any concern that she
[16] had about potentially the construction workers playing
[17] some role in that door being open?

[18] A. No.

[19] Q. When you were conducting this interview, were
[20] you taking notes?

[21] A. I was.

[22] Q. And do you retain those notes?

[23] A. They should be with the Master Supplement
[24] Report.

[1] A. In the same room.

[2] Q. And was she -- was it just you and Rochelle?

[3] A. It was -- it would have been us in the same
[4] corner. I would say the -- the room was at least this
[5] wide and probably twice the width -- or this long and
[6] at least twice the width.

[7] Q. Were you jotting notes down?

[8] A. Yes, yes.

[9] Q. And that's something that would also be
[10] contained in your file, evidence file?

[11] A. Yes, with the -- either in the evidence file
[12] or in the master report with -- attached to the master
[13] report.

[14] Q. What did Rochelle tell you?

[15] A. She was talking about how -- the same thing,
[16] the marital problems that her and her husband had been
[17] having and that they had been separated and there
[18] was -- there seemed to be a lot of conflict between
[19] the two of them concerning the children.

[20] I don't think that the children staying there
[21] was something that he approved of or desired as I'm
[22] sure is the case in many separations.

[23] She said that the -- the same thing, that
[24] there was going to be a religious celebration. I want

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[1] Q. I asked you before, but you weren't taking an
[2] audio recording of it?

[3] A. No.

[4] Q. Approximately how long were you with Deborah
[5] getting her interview?

[6] A. I don't remember. If I had to estimate, I
[7] would say it was less than an hour.

[8] Q. And what was the next thing you did after you
[9] conducted the interview with Deborah Fox?

[10] A. I will probably fail you in trying to recall
[11] what I did sequentially that day. I know there was a
[12] lot of interruption from medical staff and I was
[13] frequently getting updates from them, frequently
[14] getting updates from the scene via a cell phone. And
[15] I went in to look at Marissa to make sure that -- as
[16] protocol that there weren't any injuries that
[17] indicated to me that there was a criminal act.
[18] somewhat of a cursory examination just to be sure
[19] there was no signs of bruising, injury, ligature
[20] marks, anything -- anything like that. But my -- my
[21] next interview would have been with her mom.

[22] Q. That's Rochelle?

[23] A. Marissa's mom, yeah, Rochelle.

[24] Q. Where was that interview conducted?

[1] to say it was a Jewish -- pardon me for not knowing
[2] the proper terminology, but a Brisk or something of
[3] that nature.

[4] Q. Mm-hmm.

[5] A. And that there was going to be a lot of family
[6] coming in from out of town and some were staying there
[7] and some were staying in hotels. And there was a lot
[8] of -- a lot of preparation that her mom was doing to
[9] get ready for the celebration; that she had gone
[10] upstairs to -- solely to brush her teeth and back down
[11] again. And when she came back down, she said where's
[12] Marissa. Everybody was going I don't know, where's
[13] Marissa, and they started looking around. And
[14] frantically, obviously, one of the first places they
[15] checked was the pool and Marissa was face down in the
[16] water.

[17] She indicated to me that she had gone
[18] upstairs, brushed her teeth and returned back down and
[19] that her sister was making a phone call to her
[20] husband, who I believed was back in Florida, in an
[21] adjoining room but out of eye shot, if you will, of
[22] the pool area. And Marissa was -- you know, had been
[23] playing with toys when she had left her, when she had
[24] gone up to brush her teeth.

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[11] of the children in the property?

[12] **MR. HART:** Objection. You can answer
[13] the question if you understand it.

[14] **A.** A pool if it did not have a barrier in between
[15] to me would have been a hazardous condition. This
[16] door -- or there was a -- I understood that, although
[17] I didn't observe it myself, there was a barrier
[18] between the living space and the residence and the
[19] pool area that would have prevented -- if everything
[20] was the way it should have been that day, it would
[21] have prevented such a hazard.

[22] **BY MR. VAN NAARDEN:**

[23] **Q.** When you say barrier, do you mean the sliding
[24] door?

[25] **A.** The door.

[26] **Q.** Okay. Did you make a conclusion or a
[27] determination in your investigation conclusively as to
[28] who left that door open?

[29] **A.** Without looking at my notes, it was, from my
[30] recollection and my conclusion, that the grandmother
[31] -- the maternal grandmother had left that door open to
[32] request from the workers that they move that
[33] furniture.

[34] **Q.** I'm sorry, could you say that again?

[11] have been over -- overboard creating a hazard, then it
[12] would be where I would want -- want to consult with an
[13] Attorney General on whether to press charges for
[14] endangering, then it would have been more important
[15] for me to find out with some precision who left the
[16] door open and that would probably -- if I was
[17] considering that statute, I would have brought that
[18] person in and Mirandized them and sat them down and
[19] took an audio and videotaped statement.

[20] **Q.** And that wasn't done in this case?

[21] **A.** That was not done in this case because that
[22] hazardous condition did not exist.

[23] **Q.** Do you know how long construction workers were
[24] moving that furniture --

[25] **A.** No.

[26] **Q.** -- in between the outside or the inside?

[27] **A.** No.

[28] **Q.** Do you know how many trips they took from --
[29] to go from -- whether it be the pool house to the
[30] patio, from the patio to the pool house?

[31] **A.** No.

[32] **Q.** And did you ever -- did you ever conduct any
[33] interviews with the construction workers?

[34] **A.** No.

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[11] **A.** Sure. It was my recollection that the
[12] maternal grandmother had opened that door from the
[13] kitchen area to go ask the workers to move furniture
[14] for her as a favor.

[15] **Q.** While conducting your investigation, I
[16] understand your recollection when you talked to
[17] Rochelle -- or, rather, when you talked to Deborah
[18] that she indicated that the grandmother left the door
[19] open. And now that we've looked at the investigative
[20] report, I think we can agree that the interview taken
[21] of Rochelle at least says something different,
[22] correct?

[23] **A.** Mm-hmm, mm-hmm, yes.

[24] **Q.** Is that something that you would need to
[25] reconcile before you came to any conclusion about --
[26] as to who left the door open?

[27] **A.** No, not in this incident because the -- the
[28] statute that I would be concerning myself with
[29] criminally would have been one of endangering the
[30] welfare of a child. If -- it was my interpretation
[31] that the door had been left open for 20 minutes, 10
[32] minutes, 15 minutes. I don't know -- I don't know
[33] that I can give you a specific time limit, but
[34] something that a reasonable person would think would

[11] **Q.** That was done by Officer Santos?

[12] **A.** I believe so. I'm not sure. I'd have to
[13] refer to his supplement to be exact.

[14] **Q.** Well, I have his supplement here.

[15] **A.** Do you have it?

[16] **Q.** It's like three lines long.

[17] **A.** I would feel uncomfortable speaking of his
[18] interview in particular because I'm not Spanish
[19] speaking and I wasn't present for it.

[20] **Q.** Do you know of anybody else who conducted any
[21] interviews with the construction workers other than
[22] Officer Santos?

[23] **A.** Not without looking through the file. Yeah, I
[24] don't know of any to speak to.

[25] **Q.** Before you concluded your investigation in
[26] this case, you would have read over the statement that
[27] Officer Santos transcribed of the interview between
[28] him and Mr. Ortiz, correct?

[29] **A.** I would have either read it or it would have
[30] been a spoken conversation between me and Officer
[31] Santos.

[32] **Q.** Do you know if you had a conversation with --
[33] between you and Officer Santos relating to Mr. Ortiz'
[34] investigation?